

Message Text

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ACTION EB-11

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SUBJECT: CIVAIR: AIRLINES' MOVE TO CDG AIRPORT

REF: PARIS 6208

FOLLOWING IS EMBASSY'S SUGGESTED REVISION OF DRAFT
NOTE CONTAINED STATE 046972: "THE ACTION OF THE
GOVERNMENT OF THE UNITED STATES IN FORMALLY
REQUESTING INSCRIPTION OF A SPECIAL ITEM ON THE
AGENDA OF THE BILATERAL CONSULTATIONS HELD IN
PARIS IN JANUARY 1974 SUFFICED TO ALERT THE
FRENCH GOVERNMENT TO THE INTEREST WHICH THE
GOVERNMENT OF THE UNITED STATES ATTACHED TO
ENSURING EQUITABLE TREATMENT FOR ITS AIRLINES
THAT WOULD BE OPERATING FROM THE CHARLES DE
GAULLE AIRPORT. THE GOVERNMENT OF THE UNITED
STATES WAS MUCH REASSURED BY THE COMMITMENT
PROVIDED BY THE FRENCH DELEGATION DURING THOSE
CONSULTATIONS, AS RECORDED IN THE JOINT MEMORAN-
DUM OF CONSULTATION SIGNED IN PARIS ON JANUARY 25,
1974. IT IS THUS A SOURCE OF HEIGHTENED CONCERN
TO THE GOVERNMENT OF THE UNITED STATES THAT
EQUITABLE TREATMENT CONTINUES TO BE DENIED TO
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UNITED STATES AIRLINES FOR THEIR PASSENGER

OPERATIONS AT THE CHARLES DE GAULLE AIRPORT.

THE DECISION TO TRANSFER THE OPERATIONS OF UNITED STATES AIRLINES TO THE CHARLES DE GAULLE AIRPORT WAS MADE BY THE FRENCH CIVIL AVIATION AUTHORITIES AND FIRM ASSURANCES WERE GIVEN THAT A NUMBER OF DAILY CONNECTING SERVICES WOULD BE PROVIDED BETWEEN THE CHARLES DE GAULLE AIRPORT AND, IN PARTICULAR, CERTAIN FRENCH PROVINCIAL CITIES. THE UNITED STATES AIRLINES ACTED IN GOOD FAITH IN PREPARING FOR TRANSFER OF THEIR OPERATIONS TO THE CHARLES DE GAULLE AIRPORT ON THE BASIS OF THESE ASSURANCES, EVEN THOUGH IN SO DOING THEY WOULD BE DEPRIVED OF ACCESS TO A STILL SUBSTANTIAL SEGMENT OF THE FRENCH MARKET THAT WOULD BE SERVED ONLY BY CONNECTING FLIGHTS FROM ORLY AIRPORT. THE AIM OF THE UNITED STATES AIRLINES WAS THEN, AND IS NOW, TO CONTRIBUTE TO THE SUCCESS OF THE CHARLES DE GAULLE AIRPORT BY MAKING THEIR OWN COMMERCIAL OPERATIONS THERE A SUCCESS.

THE CURRENTLY SCHEDULED SERVICES TO PRINCIPAL FRENCH PROVINCIAL CITIES TO BE PROVIDED AT CHARLES DE GAULLE AIRPORT BY AIR FRANCE AND AIR INTER, AS CONNECTIONS TO THE UNITED STATES AIRLINES' TRANSATLANTIC PASSENGER SERVICES, WILL BE DRASTICALLY REDUCED FROM THE LEVELS OF SUCH SERVICES PROVIDED AT ORLY. AS A RESULT, SERVICES BY THE UNITED STATES AIRLINES WOULD BE UNDULY AFFECTED AND REVENUES WOULD BE GREATLY DIMINISHED IF UNITED STATES AIRLINES ARE DENIED EQUITABLE TREATMENT BY THE ABSENCE OF CONNECTING SERVICES THEY DEEM TO BE ADEQUATE. IN VIEW OF THE SUBSTANTIAL INVESTMENT ALREADY MADE, IT WAS IMPOSSIBLE FOR THE UNITED STATES AIRLINES TO SUSPEND INDEFINITELY PLANS FOR THEIR MOVE WITHOUT INCURRING FINANCIAL LOSSES EVEN GREATER THAN THOSE ANTICIPATED IN THE ABSENCE OF ADEQUATE CONNECTING SERVICES AT CHARLES DE GAULLE AIRPORT.

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IT MUST BE RECOGNIZED THAT THE PROBLEM OF EQUITABLE TREATMENT OF UNITED STATES AIRLINES ARISES FROM THE DELAY IN TRANSFER TO THE CHARLES DE GAULLE AIRPORT OF THE NORTH ATLANTIC SERVICES OF AIR FRANCE, WHICH WILL CONTINUE TO BENEFIT FROM SUPERIOR CONNECTING SERVICES AT ORLY AIRPORT THAT WILL THUS WORK TO THE COMMERCIAL DISADVANTAGE

OF UNITED STATES AIRLINES COMPETING FOR UNITED STATES-FRANCE TRAFFIC. IF THE FRENCH AIRLINES WERE ALSO TO OPERATE ITS NORTH ATLANTIC SERVICE FROM THE CHARLES DE GAULLE AIRPORT, THEN OF COURSE NETTHER THE UNITED STATES AIRLINES NOR THE GOVERNMENT OF THE UNITED STATES WOULD HAVE ANY BASIS TO COMPLAIN OF INEQUITABLE TREATMENT IRRESPECTIVE OF WHATEVER CONNECTING SERVICES WERE PROVIDED.

THE GOVERNMENT OF THE UNITED STATES TAKES THE VIEW THAT UNDER THE TERMS OF THE BILATERAL AIR TRANSPORT SERVICES AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND FRANCE, A UNITED STATES AIRLINE CANNOT BE COMPELLED TO TRANSFER ITS BASE OF OPERATIONS OR OTHERWISE BE SUBJECTED TO CONDITIONS RESTRICTING ITS SERVICES THAT WOULD FORCE IT TO OPERATE IN A COMMERCIAL ENVIRONMENT LESS FAVORABLE THAN THAT ACCORDED FRENCH AIRLINES. IT IS THUS THE JUDGMENT OF THE GOVERNMENT OF THE UNITED STATES THAT SO LONG AS ORLY AIRPORT REMAINS OPEN TO TRANSATLANTIC INTERNATIONAL OPERATIONS BY FRENCH AIRLINES, THE FRENCH GOVERNMENT IS UNDER THE OBLIGATION TO GRANT FAIR AND EQUAL OPPORTUNITY OF MARKET ACCESS TO UNITED STATES AIRLINES OPERATING FROM CHARLES DE GAULLE AIRPORT AS WELL AS TO PERMIT UNITED STATES AIRLINES TO CONTINUE TO OPERATE FROM ORLY FOR WHATEVER INTERIM PERIOD MAY BE NECESSARY PENDING TRANSFER OF THEIR OPERATIONS TO CHARLES DE GAULLE AIRPORT. THIS OBLIGATION STEMS FROM ARTICLE 15 OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, SECTION 111 OF THE ANNEX TO THE BILATERAL AIR TRANSPORT SERVICES AGREEMENT BETWEEN LIMITED OFFICIAL USE

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THE GOVERNMENTS OF THE UNITED STATES AND FRANCE, AND PARAGRAPH NO. 1 OF THE PROTOCOLE DE SIGNATURE TO THE LATTER AGREEMENT. THESE PRINCIPLES ARE IMPLICIT IN THE LAST PARAGRAPH OF THE MEMORANDUM OF CONSULTATION SIGNED ON JANUARY 25, 1974.

THE GOVERNMENT OF THE UNITED STATES MUST THEREFORE REQUEST THAT PROMPT ACTION BE TAKEN TO ENSURE EQUITABLE TREATMENT FOR UNITED STATES AIRLINES AT CHARLES DE GAULLE AIRPORT. IN THE ABSENCE OF SUCH ACTION, THE GOVERNMENT OF THE UNITED STATES MAY BE COMPELLED TO INSIST ON CONSULTATIONS TO DISCUSS THE CONSEQUENCES OF THE FAILURE OF THE FRENCH AUTHORITIES TO OBSERVE THEIR INTERNATIONAL OBLIGATIONS."

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